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ARIZONA CORPORATION COMMISSION

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May 21, 2007

Mr. Chris Peterson
Director, Government Affairs
Union Pacific
1400 Douglas Street, Stop 1560
Omaha, NE 68179

Re: Union Pacific's Construction of a Railroad Crossing in Bowie, Arizona Without First Obtaining Corporation Commission Approval.

Dear Mr. Peterson:

On Friday the Corporation Commission's Railroad Safety Division learned that Union Pacific has constructed a portion of its double tracking project through a road crossing in Bowie, Arizona, before receiving approval from the Commission as required by Arizona law.

Specifically, last week your Railroad proceeded to lay down new track through Central Avenue in Bowie, the eastern-most crossing on Union Pacific's list of 43 crossings that will be affected by its proposed border-to-border double tracking project.

It is my understanding that upon receipt of this information, our Staff contacted you and you confirmed that the line had been built through Central Avenue in Bowie without Commission approval. Staff then visited the site and photographed the crossing construction.

As you are well aware, ARS § 40-337 requires railroads to obtain the permission of the Corporation Commission prior to the construction of new railroad crossings or alterations to those crossings.

Union Pacific's decision to double track through the Bowie crossing is disturbing on several levels. First, the Commission learned of this activity not from the Railroad, but from an individual who apparently discovered the construction and reported it to our Staff. The construction through the Bowie crossing also comes at a time when the Commission has made it abundantly clear that we intend to closely scrutinize the double track project crossings prior to granting any approvals. As you know, Commissioners have been traveling the state conducting

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hearings on how to make these crossings as safe as possible,¹ and we were in the midst of scheduling an Open Meeting designed to gather more facts, including traffic counts related to each of the 43 crossings. Among the many issues that have been raised at our meetings on the double track proposal is whether Union Pacific has a duty to construct underpasses or overpasses at certain of these crossings. Now we learn that Union Pacific has built one of the crossings with no hearing, no public input and no vote of the Commission.

Therefore, I will be asking our Staff to investigate this matter and report back to the Commission on whether Union Pacific has violated Arizona law, and whether the Company should be subject to the commencement of an Order to Show Cause proceeding for its actions.

I have been informed that Union Pacific would like to meet with Commissioners individually to explain its actions in Bowie, and to assert that it is very sorry for its transgression. I will not be meeting with you to discuss the Bowie crossing and the potential violation of ARS § 40-337 as I believe this matter warrants more than an apology and because it could potentially come before me in the form of an Order to Show Cause proceeding.

In the meantime, I would like to know whether Union Pacific has commenced construction through any of the remaining 42 crossings affected by the proposed line, and to seek your assurances that UP will not engage in any activity that would violate the provisions contained in ARS § 40-337 regarding railroad crossings.

Thank you for your prompt attention to this matter.

Sincerely,



Kris Mayes
Commissioner

cc: Chairman Mike Gleason
Commissioner William A. Mundell
Commissioner Jeff Hatch-Miller
Commissioner Gary Pierce
Brian McNeil
David Raber
Brian Lehman
Chris Kempley
Terry Sims

¹ The Commission has conducted town halls on the double tracking project in Tucson, Eloy and most recently Yuma. The Commission will likely schedule additional public comment sessions in other cities along the line. Each of these meetings has been attended by concerned individuals and county and city officials who have provided valuable insights about the crossings in their communities.